

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

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|-----------------------|---|---------------------------------|
| ELIZABETH EOFF, |) | |
| |) | |
| Plaintiff, |) | Case No.: 3:08-cv-00059-KJD-RAM |
| |) | |
| vs. |) | |
| |) | MINUTES OF COURT |
| CITY OF RENO, et al., |) | |
| |) | |
| Defendants. |) | February 28, 2011 |
| | / | |

PROCEEDINGS: JURY TRIAL - DAY ONE

PRESENT:

THE HONORABLE KENT J. DAWSON, UNITED STATES DISTRICT JUDGE

Deputy Clerk: Paris Rich Reporter: Felicia Zabin

Counsel for Plaintiff: William Jeanney and Scott Freeman

Counsel for Defendant City of Reno: Jack Campbell

Counsel for Defendant Paul Pitsnogle: Robert Hager

At 8:41 a.m., the Court convenes. Plaintiff's counsel is present with Plaintiff Elizabeth Eoff. Defendant City of Reno's counsel is present with Stephen Pitts, Chief of Police, City of Reno. Defendant Paul Pitsnogle's counsel is present. Defendant Paul Pitsnogle is not present.

The Court addresses [95] Stipulation for Dismissal with Prejudice filed this date between Plaintiff, Counter-Defendant, Elizabeth Eoff and Defendant, Counter-Claimant, Paul Pitsnogle.

The Court and counsel confer regarding the Plaintiff's remaining claims in this matter. **IT IS ORDERED, the Plaintiff's Third, Fifth, Seventh, and Tenth Claims for Relief are DISMISSED. IT IS SO ORDERED.**

Court inquires as to whether Defendant City of Reno has served Subpoena on Defendant Pitsnogle. Mr. Campbell confirms that Defendant Pitsnogle has not been served. The Court further inquires as to whether Mr. Hager will remain present for these proceedings based upon the filing of [95] Stipulation. Mr. Hager presents statements. **IT IS ORDERED, as a condition of the Court's execution of [95] Stipulation, Defendant Pitsnogle shall be made available in this mater (without service of process) at a reasonably scheduled date and time. IT IS FURTHER ORDERED, pending confirmation and scheduling of Defendant Pitsnogle, [95] Stipulation shall stand submitted. IT IS SO ORDERED.**

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The Court addresses the Defendant City of Reno's [60] Motion in Limine. The Court hears arguments of counsel. The Court recites findings. **IT IS ORDERED, [60] Motion is GRANTED.**

The Court recites further statements. Mr. Campbell recites oral motion for dismissal of the Plaintiff's First and Second Claims for Relief against the Defendant City of Reno. Court recites further statements as to remaining State Claims. Court reconfirms, at present, [60] Motion is GRANTED and testimony of Michael D. Lyman shall be excluded. **IT IS SO ORDERED.**

At 9:20 a.m., counsel request a brief period to confer. The Court stands at recess.

At 9:52 a.m., the Court reconvenes.

The parties confirm they are ready to proceed with Trial this date. The Court calls for the jury.

Mr. Hager inquires whether the Court will be executing [95] Stipulation this date and confirms he will contact his client, Defendant Pitsnogle, and arrange for his appearance. Mr. Campbell requests clarification as to any statements to the potential jury regarding the dismissal of Defendant Pitsnogle. Mr. Jeanney presents statements. The Court confirms that statements regarding Defendant Pitsnogle will not be announced from the Court at this time.

The Court addresses [65] Emergency Motion in Limine and [90] Emergency Motion to Disqualify. Court recites findings. **IT IS ORDERED, [65] Motion and [90] Motion are DENIED IN PART as related to the disqualification of counsel. IT IS SO ORDERED.**

Mr. Campbell inquires as to an outstanding issue addressed at the February 22, 2011 telephonic hearing regarding the exclusion of the NCIC audit data. Mr. Jeanney presents argument. Court recites findings. **IT IS ORDERED, Defendant City of Reno's Motion to Exclude is GRANTED without prejudice. IT IS SO ORDERED.**

At 10:02 a.m., fifty-nine (59) prospective jurors enter the courtroom.

The Court presents opening remarks and introduces counsel. The Court further summarizes this action. The voir dire oath is administered and 14 prospective jurors are seated; voir dire proceeds.

The jury is passed for cause. At 11:00 a.m., the Court admonishes the potential jurors, and the Court stands at recess.

At 11:12 a.m., the Court reconvenes. All potential jurors are present and voir dire proceeds.

At 11:32 a.m., the jury is passed for cause. All remaining jurors are thanked and excused by the Court. The Court orders a brief recess for counsels' exercise of peremptory challenges off the record.

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At 11:58 a.m., the Court reconvenes and eight (8) jurors are empaneled and sworn. The Court thanks and excuses the remaining six (6) prospective jurors.

The Court instructs the jury regarding the sequence of Trial proceedings. The Court admonishes the jury, and the jury is excused for the lunch recess until 1:30 p.m. this date.

At 1:30 p.m., the Court reconvenes outside the presence of the jury.

Mr. Campbell invokes the Rule of Exclusion. Mr. Jeanney requests that Plaintiff's mother, Georgette Knect, be allowed to remain in the Courtroom as family support for Plaintiff. Mr. Campbell objects to Mrs. Knect remaining in the Courtroom and reconfirms his oral motion for exclusion. **IT IS ORDERED, all witnesses shall remain outside the Courtroom until called to testify. IT IS SO ORDERED.**

At 1:36 p.m., the jury enters the Courtroom.

Mr. Jeanney presents opening statements on behalf of the Plaintiff.

Mr. Campbell presents opening statements on behalf of the Defendant City of Reno.

At 2:48 p.m., the Court admonishes the jury, and the jury is excused for the afternoon recess.

At 3:00 p.m., Court reconvenes outside the presence of the jury.

The Court addresses with counsel a note from a juror. Mr. Campbell requests further inquiry. The Court inquires of the juror outside the presence of the other jurors. Following inquiry, Mr. Campbell recites no objection to this juror.

At 3:13 p.m., the remaining 7 members of the jury enter the Courtroom.

ELIZABETH EOFF, Plaintiff, called on behalf of the Plaintiff, is sworn, examined on direct by Mr. Jeanney, and released subject to recall.

At 4:26 p.m., the jury is admonished and excused. **IT IS ORDERED, Jury Trial is continued to Tuesday, March 1, 2011 at 9:00 a.m. in Reno Courtroom 4 before Judge Kent J. Dawson.**

Court adjourns.

LANCE S. WILSON, CLERK

By: /s/ Paris Rich
Deputy Clerk